IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.9797/07
Bhawani Singh Vs. State of Raj. & Anr.

Date of order : 29/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Sandeep Mathur for the petitioner.

******

Heard learned counsel for the petitioner.

The petitioner Bhawani Singh has challenged the order passed by the Board of Revenue dated 24.10.2007, the Revenue Appellate Authority, Ajmer dated 24.11.2001 and the S.D.O., Kekri dated 26.6.2001. The SDO, Kekri in the suit under Section 88 and 188 of the Rajasthan Tenancy Act was filed by the plaintiff-respondent with the prayer that the defendant-petitioner be restrained from interfering with the

peaceful possession and use of the land in dispute. In the suit description of family of plaintiff-respondent was given according to which the defendant-petitioner was brother of the deceased husband of the plaintiff-respondent. The plaintiff claimed that the land in dispute is in the share of her late husband and the agreement and settlement between the family participation of the land had taken place 40 years ago. The learned SDO accepted the application for temporary injunction and found prima facie case in favour of the plaintiff upon being satisfied about her possession and directed the defendants not to interfere with the peaceful possession of the property. Revenue Appellate Authority while rejecting the appeal of

the petitioner reiterated the same. The petitioner thereupon filed revision before the Board of Revenue, which was also dismissed by the Board of Revenue.

It was argued that petitioner has proved his possession on the basis of his affidavit and that the findings as regards the possession has wrongly been recorded while deciding application under Section 212 of the Rajasthan Tenancy Act while the same suit is still pending. Such a finding would therefore prejudice the case of the petitioner till the suit is finally decided. It was argued that the petitioner has separately filed the civil suit for declaration of her rights in the way.

On perusal of para 8 of the judgment of Board of Revenue, it would be

evident that the Board has observed that the purpose of temporary injunction is to ensure that the status of the property at the time when the lis is initiated is maintained till final determination thereof. It is evident that the Board of Revenue noted that while the plaintiff was claiming rights on the land in dispute on the basis of the fact that she was widow of deceased Moti Singh whereas the defendant petitioner was claiming the said lands on the basis of an alleged will which was subject matter of a civil suit. The Board of Revenue noted that finding as regards prima facie possession of the plaintiff was based on the entries made in the jamabandi of Svt. 2054 to 2057 which shows that the land was in the name of plaintiff

whereas in the will the khasra numbers are not mentioned.

On consideration of three orders and other materials forming part of the finding of the Board, I do not find that any of the courts below has committed any such error which can be described as error apparent on the face of the record so as to warrant interference by this Court.

The writ petition which lacks merit is dismissed summarily.

(MOHAMMAD RAFIQ), J.

RS/